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REFERENCE TITLE: **criminal justice; budget.**

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

## **SB 1525**

Introduced by  
Senators Burns, Bee, Bennett, Blendu, Huppenthal: Jarrett, Martin,  
Tibshraeny (with permission of committee on Rules)

### **AN ACT**

AMENDING SECTIONS 12-102.02, 13-901.02 AND 31-286, ARIZONA REVISED STATUTES;  
AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 41-191.09; AMENDING SECTIONS 41-1641, 42-3104 AND 42-3106, ARIZONA  
REVISED STATUTES; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-102.02, Arizona Revised Statutes, is amended to  
3 read:

4 12-102.02. State aid to the courts fund

5 A. The state aid to the courts fund is established consisting of  
6 monies appropriated to the fund and monies allocated pursuant to section  
7 41-2421, subsections B and J. The purpose of the fund is to provide state  
8 aid to the superior court, including the clerk of the superior court, and  
9 justice courts for the processing of criminal cases.

10 B. The supreme court shall administer the fund. The supreme court  
11 shall allocate monies in the fund to the superior court, including the clerk  
12 of the court, and the justice courts in each county according to the  
13 following composite index formula:

14 1. The three year average of the total felony filings in the superior  
15 court in the county, divided by the statewide three year average of the total  
16 felony filings in the superior court.

17 2. The county population, as adopted by the department of economic  
18 security, divided by the statewide population, as adopted by the department  
19 of economic security.

20 3. The sum of paragraphs 1 and 2 divided by two equals the composite  
21 index.

22 4. The composite index for each county shall be used as the multiplier  
23 against the total funds appropriated from the state general fund and other  
24 monies distributed to the fund pursuant to section 41-2421.

25 C. The presiding judge of the superior court in each county, in  
26 coordination with the chairman of the county board of supervisors or the  
27 chairman's designee, the clerk of the superior court, ~~and~~ the presiding  
28 justice of the peace **AND AN ELECTED JUSTICE OF THE PEACE** of the county shall  
29 submit a plan to the supreme court that details how the funds allocated to  
30 the county pursuant to this section will be used and how the plan will assist  
31 the county in improving criminal case processing. The presiding judge of the  
32 superior court, the chairman of the board of supervisors or the chairman's  
33 designee, the clerk of the superior court, ~~and~~ the presiding justice of the  
34 peace **AND AN ELECTED JUSTICE OF THE PEACE** shall sign the plan and shall  
35 indicate their endorsement of the plan as submitted or shall outline their  
36 disagreement with any provisions of the plan. The supreme court may approve  
37 the plan or require changes to the plan in order to achieve the goal of  
38 improved criminal case processing.

39 D. By January 8, 2001 and every year thereafter by January 8, the  
40 supreme court shall report to the governor, the legislature, the joint  
41 legislative budget committee, each county board of supervisors and the  
42 Arizona criminal justice commission on the expenditure of the fund monies for  
43 the prior fiscal year and on the progress made in achieving the goal of  
44 improved criminal case processing. This information may be combined into one  
45 report with the information required pursuant to section 12-102.01,  
46 subsection D.

1 E. All monies spent or distributed from the fund shall be used to  
2 supplement, not supplant, funding at the level provided in fiscal year  
3 1997-1998 by the counties for the processing of criminal cases in the  
4 superior court, including the office of the clerk of the superior court, and  
5 justice courts.

6 F. Monies in the state aid to the courts fund are exempt from the  
7 provisions of section 35-190 relating to lapsing of appropriations and monies  
8 allocated pursuant to section 41-2421, subsections B and J are subject to  
9 legislative appropriation. Any state general fund monies appropriated to the  
10 fund may be spent without further legislative appropriation.

11 G. On notice from the supreme court, the state treasurer shall invest  
12 and divest monies in the fund as provided by section 35-313, and monies  
13 earned from investment shall be credited to the fund.

14 Sec. 2. Section 13-901.02, Arizona Revised Statutes, is amended to  
15 read:

16 13-901.02. Drug treatment and education fund

17 A. The drug treatment and education fund is established. The  
18 administrative office of the supreme court shall administer the fund.

19 B. Fifty per cent of the monies deposited in the drug treatment and  
20 education fund shall be distributed by the administrative office of the  
21 supreme court to the superior court probation departments to cover the costs  
22 of placing persons in drug education and treatment programs administered by a  
23 qualified agency or organization that provides such programs to persons who  
24 abuse controlled substances. Such monies shall be allocated to superior  
25 court probation departments according to a formula based on probation  
26 caseload to be established by the administrative office of the supreme court.

27 C. Fifty per cent of the monies deposited in the drug treatment and  
28 education fund shall be distributed to the ~~Arizona parents commission on drug~~  
29 ~~education and prevention established by section 41-1604.17~~ **CORRECTIONS FUND**  
30 **ESTABLISHED BY SECTION 41-1641.**

31 D. The administrative office of the supreme court shall cause to be  
32 prepared at the end of each fiscal year after 1997 an accountability report  
33 card that details the cost savings realized from the diversion of persons  
34 from prisons to probation. A copy of the report shall be submitted to the  
35 governor and the legislature, and a copy of the report shall be sent to each  
36 public library in the state. The administrative office of the supreme court  
37 shall receive reimbursement from the drug treatment and education fund for  
38 any administrative costs it incurs in the implementation of this section.

39 Sec. 3. Section 31-286, Arizona Revised Statutes, is amended to read:

40 31-286. Transition program drug treatment fund

41 A. The transition program drug treatment fund is established  
42 consisting of monies ~~distributed pursuant to section 42-3106, subsection C~~  
43 ~~and monies~~ deposited pursuant to section 31-285, subsection C.

44 B. The department shall administer the fund and shall distribute fund  
45 monies to entities that provide transition services to nonviolent drug  
46 offenders. Monies in the fund are subject to legislative appropriation and

are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 4. Title 41, chapter 1, article 5, Arizona Revised Statutes, is amended by adding section 41-191.09, to read:

41-191.09. Attorney general legal services cost allocation fund: contributions: exemptions

A. THE ATTORNEY GENERAL LEGAL SERVICES COST ALLOCATION FUND IS ESTABLISHED FOR THE PURPOSE OF REIMBURSING THE DEPARTMENT OF LAW FOR GENERAL AGENCY COUNSEL. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION. THE ATTORNEY GENERAL SHALL ADMINISTER THE FUND.

B. BEGINNING JULY 1, 2005, ALL STATE AGENCY APPROPRIATED AND NONAPPROPRIATED FUNDS SHALL CONTRIBUTE A PRO RATA SHARE OF GENERAL AGENCY COUNSEL SERVICES PROVIDED BY THE DEPARTMENT OF LAW. THE PRO RATA SHARE IS PAYABLE BY PAYROLL FUND SOURCE, AND THE RESULTANT AMOUNT SHALL BE DEPOSITED IN THE ATTORNEY GENERAL LEGAL SERVICES COST ALLOCATION FUND. BEGINNING JULY 1, 2005, THE PRO RATA SHARE FOR EACH FUND SHALL BE 0.19 PER CENT OF THE TOTAL PAYROLL. FOR THE PURPOSES OF THIS SUBSECTION, "TOTAL PAYROLL" INCLUDES FEDERAL MONIES, SPECIAL REVENUE FUNDS, INTERGOVERNMENTAL REVENUE MONIES, TRUST FUNDS AND OTHER PAYROLL FUND SOURCES. TOTAL PAYROLL DOES NOT INCLUDE ANY STATE GENERAL FUND MONIES.

C. A CLAIM FOR THE PRO RATA SHARE PERCENTAGE PAYMENT SHALL BE SUBMITTED ACCORDING TO THE FUND SOURCE, WITH THE ACCOMPANYING PAYROLL, TO THE DEPARTMENT OF ADMINISTRATION FOR DEPOSIT IN THE ATTORNEY GENERAL LEGAL SERVICES COST ALLOCATION FUND.

D. THE FOLLOWING AGENCIES ARE EXEMPT FROM THIS SECTION:

1. THE DEPARTMENT OF WATER RESOURCES.
2. THE RESIDENTIAL UTILITY CONSUMER OFFICE.
3. THE INDUSTRIAL COMMISSION.
4. THE UNIVERSITIES.
5. THE AUDITOR GENERAL.
6. THE CORPORATION COMMISSION.
7. THE OFFICE OF THE GOVERNOR.
8. THE DEPARTMENT OF LAW.
9. THE HOUSE OF REPRESENTATIVES.
10. THE SENATE.
11. THE JOINT LEGISLATIVE BUDGET COMMITTEE.
12. THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.
13. THE LEGISLATIVE COUNCIL.
14. THE DEPARTMENT OF ADMINISTRATION RISK MANAGEMENT FUND.
15. THE DEPARTMENT OF TRANSPORTATION.
16. THE ARIZONA GAME AND FISH DEPARTMENT.

E. MONIES IN THE ATTORNEY GENERAL LEGAL SERVICES COST ALLOCATION FUND ARE EXEMPT FROM LAPSING TO THE STATE GENERAL FUND AT THE END OF EACH FISCAL YEAR.

Sec. 5. Section 41-1641, Arizona Revised Statutes, is amended to read:

41-1641. Corrections fund; uses; prior approval; exemption from lapsing

A. The corrections fund is established and consists of monies received from THE DRUG TREATMENT AND EDUCATION FUND ESTABLISHED BY SECTION 13-901.02 AND the ~~distribution~~ DISTRIBUTIONS provided pursuant to ~~section~~ SECTIONS 42-3104 AND 42-3106.

B. Monies in the corrections fund may be expended by:

1. The director of the department of administration for major maintenance, construction, lease, purchase, renovation or conversion of corrections or state operated juvenile facilities subject to the prior approval of the joint committee on capital review and the legislature.

2. The director of the state department of corrections for costs incurred in the minor maintenance and the operations of corrections facilities subject to the prior approval of the legislature.

3. The director of the department of juvenile corrections for costs incurred in the minor maintenance and the operations of state operated juvenile facilities subject to the prior approval of the legislature.

C. Notwithstanding any provision of law to the contrary and except as provided in subsection B of this section:

1. The director of the state department of corrections shall enter into an agreement with the director of the department of administration for the expenditure of monies for the maintenance of corrections facilities.

2. The director of the department of juvenile corrections shall enter into an agreement with the director of the department of administration for the expenditure of monies for the maintenance of state operated juvenile facilities.

D. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 6. Section 42-3104, Arizona Revised Statutes, is amended to read: 42-3104. Monies allocated to the corrections fund

Through June 30, ~~2005~~ 2010, the department shall deposit, pursuant to sections 35-146 and 35-147, the following monies in the corrections fund established by section 41-1641:

1. 20 per cent of the monies collected pursuant to section 42-3052, paragraph 1.

2. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 2.

3. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 3.

4. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 4.

5. 11.11 per cent of the monies collected pursuant to section 42-3052, paragraph 5.

6. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 6.

7. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 7.

8. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 8.

9. 50 per cent of the monies collected pursuant to section 42-3052, paragraph 9.

Sec. 7. Section 42-3106, Arizona Revised Statutes, is amended to read:

42-3106. Monies allocated to the drug treatment and education fund; corrections fund

A. Notwithstanding any law to the contrary, seven per cent of the monies collected pursuant to section 42-3052, paragraph 1 and eighteen per cent of the monies collected pursuant to section 42-3052, paragraphs 2, 3 and 4 shall be deposited in the drug treatment and education fund established by section 13-901.02.

B. Notwithstanding any law to the contrary, three per cent of the monies collected pursuant to section 42-3052, paragraph 1 and seven per cent of the monies collected pursuant to section 42-3052, paragraphs 2, 3 and 4 shall be deposited in ~~a separate revolving fund of the state department of corrections~~ THE CORRECTIONS FUND ESTABLISHED BY SECTION 41-1641.

~~C. Notwithstanding any law to the contrary, for fiscal year 2003-2004, five hundred thousand dollars of the monies deposited in the separate revolving fund of the state department of corrections pursuant to subsection B of this section shall be distributed to the transition program drug treatment fund established by section 31-286.~~

~~D. For fiscal year 2003-2004 and thereafter, any remaining monies in the separate revolving fund of the state department of corrections after distribution to the transition program drug treatment fund shall be used for the purposes of both:~~

~~1. Implementing section 31-411.01.~~

~~2. Offender participation in appropriate drug treatment or education programs that are administered by a qualified agency, organization or individual and that are approved by the department of health services for offenders who the state department of corrections determines have a history of substance abuse and who have been released from confinement.~~

~~E. C.~~ Monies that are deposited in the ~~state department of corrections revolving~~ fund pursuant to subsection B of this section shall not revert to the state general fund if unexpended at the close of the fiscal year.

~~F. D.~~ If the state department of corrections receives a federal grant, any portion of the monies that are deposited pursuant to subsection B of this section may be used as a cash match.

Sec. 8. Adult probation ratios; suspension; Maricopa county

Notwithstanding section 12-251, subsection A, Arizona Revised Statutes, and section 13-916, subsection B, Arizona Revised Statutes, or any other law, adult probation ratios are suspended for Maricopa county for fiscal year 2005-2006.

1           Sec. 9. Maricopa county: adult probation: caseload

2           A. For fiscal year 2005-2006, it is the intent of the legislature that  
3 Maricopa county will pay for adult probation programs in that county,  
4 including standard probation, intensive probation, interstate compact  
5 probation and community punishment. It is not the intent of the legislature  
6 that the administrative office of the courts withdraw allocation of monies to  
7 Maricopa county for other adult probation programs or for support services it  
8 provides to the county for adult probation.

9           B. The administrative office of the courts shall not allocate any  
10 monies appropriated for adult probation services to Maricopa county. The  
11 administrative office of the courts may allocate monies to Maricopa county  
12 for juvenile probation programs.

13           C. The board of supervisors shall provide administrative oversight and  
14 establish program standards for adult probation programs in Maricopa county.

15           D. The Maricopa county adult probation department shall prepare and  
16 submit a monthly performance report to the joint legislative budget committee  
17 and the county board of supervisors. The report shall include performance  
18 measures for adult standard probation, adult intensive probation, interstate  
19 compact probation and the community punishment program. For each program,  
20 the measures shall include the following:

- 21           1. The total caseload capacity.
- 22           2. The total number of active cases.
- 23           3. A comparison of caseload capacity in the current month to the  
24 caseload capacity funded by the state and Maricopa county as of December 1,  
25 2002.
- 26           4. The average number of offenders supervised by each probation  
27 officer or probation officer team for that month.
- 28           5. The number of officers currently supervising offenders.
- 29           6. The number of individuals receiving treatment services.
- 30           7. The average supervision cost per probationer.
- 31           8. The average treatment cost per probationer.
- 32           9. The number of probation violators recommended to be committed to  
33 state prison.
- 34           10. The number of probation violators committed to state prison.

35           E. For the programs listed in subsection A, Maricopa county shall  
36 provide the level of funding necessary to maintain the caseload capacity  
37 existing as of December 1, 2002. Maricopa county maintenance of caseload  
38 capacity shall include the caseload capacity funded by the state and Maricopa  
39 county as of December 1, 2002. To ensure that offenders are not imprisoned  
40 who would otherwise be assigned to probation, Maricopa county shall maintain  
41 adult probation caseload capacity in fiscal year 2005-2006 to allow a  
42 continuum of sanctions from standard probation to intensive probation so that  
43 offenders may be sentenced pursuant to law.

44           Sec. 10. County expenditure limitations; adult probation;  
45                                   fiscal year 2005-2006 adjustment formula

1 A. As a result of the transfer of funding for adult probation as  
2 provided in this act from the state to Maricopa county beginning in fiscal  
3 year 2005-2006, the economic estimates commission shall increase the county's  
4 base expenditure limit by an amount determined as follows:

5 1. Divide the amount of the state payments received by the county for  
6 adult standard probation, adult intensive probation, community punishment,  
7 adult interstate compact probation and adult probation treatment services in  
8 fiscal year 2002-2003 by the GDP price deflator, as defined in section  
9 41-563, Arizona Revised Statutes, for the same fiscal year used to calculate  
10 expenditure limitations for fiscal year 2005-2006 and multiply the resulting  
11 quotient by the GDP price deflator determined for fiscal year 1979-1980.

12 2. Divide the amount determined in paragraph 1 for fiscal year  
13 2005-2006 by the population of the county, as defined in article IX, section  
14 20, subsection (3), paragraph (f), Constitution of Arizona, for the same  
15 fiscal year used to calculate expenditure limitations for fiscal year  
16 2005-2006 and multiply the resulting quotient by the population of the county  
17 for fiscal year 1979-1980.

18 B. The economic estimates commission shall adjust the county  
19 expenditure limitation for fiscal year 2005-2006 based on this section. The  
20 calculation shall use the same base limit of \$156,635,737 for Maricopa county  
21 for the purpose of determining the adjustment.

22 Sec. 11. Adult and juvenile probation programs; administrative  
23 office of the courts; reimbursement of costs

24 A. For fiscal year 2005-2006, the administrative office of the courts  
25 shall require a county with a population of more than five hundred thousand  
26 persons but less than one million five hundred thousand persons to quarterly  
27 reimburse the administrative office of the courts for adult and juvenile  
28 probation costs. The total county reimbursement for any one fiscal year  
29 shall equal \$1,381,900. The administrative office of the courts shall  
30 deposit, pursuant to sections 35-146 and 35-147, Arizona Revised Statutes,  
31 these monies in the state general fund.

32 B. The county shall make the reimbursement for costs pursuant to  
33 subsection A of this section within thirty days after a request. If the  
34 county does not make the reimbursement, the director of the administrative  
35 office of the courts shall notify the state treasurer of the amounts owed and  
36 the treasurer shall withhold the amount, including any additional interest as  
37 provided in section 42-1123, Arizona Revised Statutes, from any transaction  
38 privilege tax distributions to the county. The treasurer shall deposit,  
39 pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, the  
40 withholdings in the state general fund.

41 Sec. 12. Collection enforcement revolving fund; attorney  
42 general; use

43 Notwithstanding section 41-191.03, subsection B, Arizona Revised  
44 Statutes, the attorney general may use monies in the collection enforcement  
45 revolving fund established by section 41-191.03, Arizona Revised Statutes,



for any operating expenses incurred by the department of law in fiscal year 2005-2006.

Sec. 13. Criminal justice enhancement fund; state general fund deposit; crime laboratory assessment fund

Notwithstanding any other law, for fiscal year 2005-2006, any monies distributed from the criminal justice enhancement fund pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, shall be deposited in the crime laboratory assessment fund established by section 41-2415, Arizona Revised Statutes. Notwithstanding section 41-2415, subsection C, Arizona Revised Statutes, monies distributed by this section pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, are for use by the department of public safety and are exempt from distribution to political subdivisions.

Sec. 14. Department of public safety; highway funds; distribution

Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes, the statutory caps limiting the level of highway user revenue fund monies and state highway fund monies available to fund department of public safety highway patrol costs are suspended for fiscal year 2005-2006.

Sec. 15. Justices of the peace; payment of compensation; fiscal year 2005-2006

Notwithstanding section 22-117, subsection B, Arizona Revised Statutes, for fiscal year 2005-2006, the state shall pay 38.5 per cent of the compensation and employee related expenditures of a justice of the peace and the county shall pay 61.5 per cent of the compensation and employee related expenditures of a justice of the peace, except that the county shall pay the full amount of the employer contribution to the Arizona state retirement system or any county health plan.

Sec. 16. Maricopa county; probation surcharge; retention

Notwithstanding section 12-114.01, Arizona Revised Statutes, in fiscal year 2005-2006, Maricopa county shall retain the monies it collects from the five dollar probation surcharge assessed on civil and criminal traffic violations currently deposited in the judicial collection enhancement fund.

Sec. 17. Retroactivity

A. Section 41-191.09, Arizona Revised Statutes, as added by this act, is effective retroactively to from and after June 30, 2005.

B. Section 42-3104, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after June 30, 2005.